

CHAPTER 16.28

Oil and Gas Exploration and Development

16.28.010 Legislative purpose.

It is found and declared that the location and operation of drilling and producing oil, liquid petroleum and natural gas wells within the City shall be subject to regulation under the police power. The business of drilling, producing, storing and handling of flammable and explosive liquids and the noxious odors, noise, environmental damages, aesthetic diminution and hazards that emanate from such an activity make the regulation of the location of oil and gas wells and the operation thereof necessary and reasonable to promote the public health, safety and general welfare and to require zoning regulation pursuant to criteria of this Chapter for use by special review. (Ord. 403-07; Ord. 602-84)

16.28.020 Legislative intent.

The legislative intent of this Chapter is to:

- A. Recognize that oil and gas wells are a necessary facet of natural energy production;
- B. Recognize and ensure the rights of those concerned to extract petroleum resources from the earth;
- C. Recognize and ensure the rights of those concerned with the use and development of the surface of the land;
- D. Ensure that the petroleum resource land uses are compatible with the total environment of the community; and
- E. Protect the public from the hazards of oil and gas well drilling and development. (Ord. 403-07; Ord. 602-84)

16.28.030 Scope.

- A. The provisions of this Chapter shall apply to the construction, drilling, alteration, repair, erection, location and maintenance of any gas or oil well, accessory equipment or structure within the City.
- B. For the purposes of this Chapter, application for use by special review may be sought by an individual who has a property interest in underlying oil and gas sufficient to allow use of the surface for extraction.
- C. Where, in any specific case, the gas and oil well requirements of any other agency or other provision of this Code are in conflict with this Chapter, the more restrictive requirements shall be imposed.
- D. Nothing in this Chapter shall be construed to diminish the applicability of the other development-related codes of the City. It is particularly noted that this Chapter allows oil and gas drilling and development as a special use under the zoning code of the City. (Ord. 403-07; Ord. 602-84)

16.28.040 Definitions and word usage.

Unless the context otherwise requires, the definitions set forth in this Section govern the meaning and the interpretation of these regulations. Words used in the present tense include the future, words in the singular number include the plural and words in the plural number include the singular; the word "shall" is mandatory and not directory. Words not defined in this Section shall have the meanings commonly given to them in the petroleum industry.

Abandonment means the disuse of a well for exploration or for producing oil or gas for a continuous period of one hundred eighty (180) days unless, upon application submitted prior to the expiration of that time, the planning director finds that such discontinued use was the result of adverse market conditions or absence of equipment, in which case the period shall be extended for a time not to exceed one hundred eighty (180) days.

Co-located means grouped in proximity to one another; sometimes referred to as "twinning."

Gas well means any well drilled, to be drilled, or used for the intended or actual production of natural gas and associated hydrocarbons.

Oil well means any well drilled, to be drilled, or used for the intended or actual production of liquid petroleum or petroleum products or for the enhancement of production from an existing well.

Operator means an individual, partnership, company or corporation holding a mineral interest in property and who is exercising that interest through oil and gas drilling on that property.

Person means and includes both the singular and the plural and means and includes any person, individual, firm, partnership, association, corporation, club, society, cooperative, trust, municipal corporation or political subdivision whatsoever.

Place of assembly means any structure, room or space, whether indoor or outdoor, for the congregation or seating of fifty (50) or more persons.

Proposed construction means construction for which the City has received an application for a building permit; however, if actual construction is not commenced within six (6) months of the application, the request and any submission attached to the request will not be considered proposed construction. If submitted within six (6) months of the expiration of the aforementioned time period, the reapplication for a building permit at the same site or general site for which a previous building permit has expired shall not be deemed proposed construction.

Structure means anything constructed or erected that has three (3) or more walls and a roof.

Well means and includes any hole or holes, bore or bores, to any sand, formation, strata or depth for the purpose of producing and recovering any oil, gas, liquid hydrocarbon or any combination of them. (Ord. 403-07; Ord. 602-84)

16.28.050 Permit required.

No person shall commence operations for the drilling, completion or production of an oil and gas well within the City without first having lawfully complied with this Chapter, the zoning code set out in Title 19 of this Code and all other provisions of this Code and any amendments thereto. It is unlawful for any person to commence operations for the drilling, completion or production of an oil or gas well within

the City without first having lawfully complied with the requirements of this Chapter and any amendments thereto. (Ord. 403-07; Ord. 602-84)

16.28.060 Oil and gas well locations and setbacks for structures, utility easements and rights-of-way.

A. Drilling. The drilling and operation of wells shall comply with the regulations established by the Colorado Oil and Gas Conservation Commission.

B. Setbacks from wellheads. The following distances are hereby established as minimum setbacks related to oil and gas wells:

1. One hundred fifty (150) feet for all structures not necessary to the operation of the well; and
2. Three hundred (300) feet for all structures and places used as a place of assembly.

C. Setbacks from all tank batteries. The minimum distance setback from all gas and oil well tank batteries, separators and ancillary equipment is three hundred (300) feet for all structures not necessary to the operation of the well and for structures and places used as a place of assembly.

D. Setbacks from any street, alley or right-of-way. The minimum distance separation between any public street, alley or right-of-way and a wellhead and/or any tank battery, separator and ancillary equipment is seventy-five (75) feet.

E. Setbacks from any utility easement. The minimum distance separation between any utility easement and a wellhead and/or any tank battery, separator and ancillary equipment is twenty (20) feet. (Ord. 403-07; Ord. 1070-97; Ord. 818-91; Ord. 602-84)

16.28.070 Application for use by special review.

Persons or firms desiring to drill any gas or oil well, with or without accessory equipment or structures, shall file a written application with the planning director. Such application shall meet the standards set forth in this Chapter as well as all other standards prescribed for use by special review under the zoning code. The written application shall contain the following general information:

A. Request for approval for use by special review under the form and procedures of the zoning code. This request shall include a full description of the intended use, site improvements and characteristics of installation, operation, maintenance, site restoration and abandonment.

B. Evidence of leasehold, resource ownership or owner's authorization.

C. The name and address of each owner of an interest of record in the oil and gas leases under which such well is to be drilled, operated, maintained or abandoned.

D. The name and address of the person or firm in charge of the operation and maintenance of such well.

E. The name and address of the person or firm in charge of the work to be done under such permit.

F. A true and accurate listing of the names and addresses of the owners of all real estate situated within five hundred (500) feet of the proposed well, accessory equipment and structure site, according to county assessor records current at the time of the application.

G. Notice of the public hearing for the use by special review shall be given in accordance with Chapter 19.64 of this Code.

H. Evidence of satisfaction of the bond requirement (see Sections 16.28.080 and 16.28.090 of this Chapter).

I. Evidence of satisfaction of the insurance requirement (see Section 16.28.100 of this Chapter).

J. Site or master plan for intended use (see Section 16.28.120 of this Chapter). The number of copies to be submitted shall be as specified by the planning director.

K. Conceptual restoration plan (see Section 16.28.130 of this Chapter).

L. Specification and graphic representation of the equipment to be used and the improvements to be made. Specific attention shall be given to the intended measures of noise mitigation and ensuring the public safety.

M. Certification that the owners of the leasehold interest and the persons in charge of the drilling, operation maintenance or abandonment of such well are familiar with the ordinances of the City and will abide by the provisions thereof.

N. Waste and storage plan (see Section 16.28.140 of this Chapter). (Ord. 451-08; Ord. 403-07; Ord. 602-84)

16.28.080 Bond requirements.

A. Every operator shall, prior to commencing drilling, submit and maintain a bond in favor of the City in the amount of one hundred thousand dollars (\$100,000.00) for each well to be drilled. The bond is to be executed by the operator and a corporate surety authorized to do business in the State and conditioned that the operator shall pay all fees and sums due the City under this Chapter and comply and abide by the ordinances of the City and laws of the State, and, should the operator fail to do so, to pay all costs and expenses incident for such determination by test or otherwise determine whether such failure to comply with such ordinances and laws has resulted in any damage to the City or others, and if so, pay the expenses and costs of correcting such condition created by such failure and all damages resulting therefrom.

B. Any bond required in this Chapter that lapses or becomes void for any reason whatsoever shall cause the drilling and/or operation of the well covered by such bond to be in violation of this Code until a new bond shall be provided and filed with the administrative official or the existing bond reinstated in full force, and such well shall be suspended and discontinued, consistent with safety consideration, until the filing of such new bond or reinstatement of such existing bond. (Ord. 403-07; Ord. 602-84)

16.28.090 Blanket bond.

In lieu of the requirements provided in Section 16.28.080 above, an operator may file with the planning director a blanket bond designed to cover all drilling operations within the City. At no time shall the amount of such blanket bond be less than one hundred thousand dollars (\$100,000.00) times the

number of wells being drilled. Additionally, an operator may file with the planning director a blanket bond for all wells completed and in operation within the City. The amount of the operation blanket bond shall be two hundred thousand dollars (\$200,000.00) for all such wells within the City limits. (Ord. 403-07; Ord. 602-84)

16.28.100 Insurance requirements.

Every operator shall also submit a copy of a policy of insurance in the amount of one million dollars (\$1,000,000.00) insuring the applicant and the City against all claims or causes of action made against either or both applicant and City for damages to persons or property arising out of the drilling, maintenance, production and other work done with respect to such proposed oil or gas well. Such policies shall be written by a company authorized to do business in the State. (Ord. 403-07; Ord. 602-84)

16.28.110 Site and master plan.

A. Site plan. Every applicant shall, at the time of filing an application, submit a site plan showing dimensions of the proposed well location lot and property lines, with a complete legal description of the proposed well site and with reference thereon to the surface owners of all such property within approximately three hundred (300) feet, potential accessory equipment, proposed roads and permanent structures.

B. Master plan. In lieu of the site plan required by Subsection A of this Section, the applicant may submit a master plan if more than one (1) well is to be drilled in a two-year period and within a single geographical area. Such plan shall include the following:

1. A full legal description of the single area covered by the master plan;
2. For each well proposed in the area, all information required by Subsection A of this Section; and
3. If a battery of accessory equipment will serve all or part of the proposed area, the site of such battery shall be included. (Ord. 403-07; Ord. 602-84)

16.28.120 Well site restoration.

A. Upon abandonment of an oil or gas well or exploration hole, the operator shall plug the hole in accordance with Colorado Oil and Gas Conservation Commission regulations.

B. Wells that have penetrated a water-bearing stratum shall be lined sufficiently above and below the stratum to prevent contamination.

C. When a well site is abandoned, all tanks, pumps, rigs, separators, treaters, batteries and any other facilities equipment and structures associated with these installations shall be removed.

D. An abandoned well site shall be restored to a condition substantially similar to the original contours and condition, or better.

E. Site restorations shall include leveling and reseeded all on-site roads, access roads and areas disturbed by well activity.

F. To assure site revegetation, the City may require special treatment, such as temporary irrigation, windbreaks, soil treatment, addition of topsoil and protective groundcover and erosion control measures.

G. Site recovery shall be consistent with Colorado Oil and Gas Conservation Commission regulations and other applicable state and federal regulations. (Ord. 403-07; Ord. 602-84)

16.28.130 Waste and storage requirements.

A. No oil and gas produced from any well shall be saved, stored or confined in any tank or place or device of confinement at the well site, except as such may be permitted by the International Fire Code, as adopted and amended by the City.

B. To the maximum extent possible, no oil and gas produced shall be permitted to escape the confines of the well, the wellhead or the transmission lines into the surrounding environment. Flaring of an oil or gas well shall be allowed under the rules of the Colorado Oil and Gas Conservation Commission and the chief of the City Fire Department. Burning of refuse waste material and other open fires is unlawful.

C. At no time shall fluids of any kind or type be run into, stored or collected in unlined earthen pits. During the period of drilling, completion, operation, repair or maintenance of any well, the operator shall provide watertight tanks, vessels or pits lined with an impervious material to contain drilling mud, water or other types of liquid or solid waste. Solid and liquid waste shall be regularly removed from the premises to spill outside of the working area.

D. The premises shall be kept in a clean and sanitary manner, free from rubbish of every character, to the satisfaction of the enforcement official. It is unlawful for any operator, their agent or employee, to permit within the corporate limits of the City the discharge of any mud, water, waste oil, slush or other waste matter from any slush pit, storage tank, or oil or gas well into the alleys, streets, lots, land or leases within the corporate limits of the City. (Ord. 403-07; Ord. 602-84)

16.28.140 Public hearings – notice – issuance or denial of use by special review.

A. Upon receipt of all necessary application materials, as specified in this Chapter and as necessary under the use by special review provisions of the zoning code, the Planning Commission and the City Council shall conduct the public hearings as prescribed for use by special review.

B. Public notice shall be given prior to the public hearings in the manner and form prescribed for use by special review.

C. Conditions precedent to granting use by special review for oil and gas drilling and production:

1. The City Council must first find that in no event shall the density of oil and/or gas wells exceed the limits placed on such wells by the Colorado Oil and Gas Conservation Commission. Wells shall be co-located to the extent allowed by statute and/or the Colorado Oil and Gas Conservation Commission and to the extent feasible, as determined by the City Council.

2. Tanks, heaters, separators and accessory equipment shall be limited to one (1) clustered installation ("battery") per leasehold up to one-half (½) section, to the extent feasible, as determined by the City Council. Where mineral right leaseholds or ownerships are less than one-

quarter (1/4) section in size, such accessories and their location shall be coordinated from one leasehold to the next in such fashion that the apparent number of installations is minimized.

3. The City Council must find that the applicant has presented satisfactory evidence of insurance as required by Section 16.28.100 of this Chapter.

4. The City Council must find that the applicant has produced satisfactory evidence fulfilling the bond requirement required by Sections 16.28.080 and 16.28.090 of this Chapter.

5. The City Council must find that the applicant has provided the master or site plan as required by Section 16.28.120 of this Chapter and that such plan fulfills the requirements of said Section.

6. The City Council must find that the applicant has a legitimate property interest sufficient to meet the requirements of this Section.

D. If the City Council finds that all the requirements of the Paragraphs 1 through 5 of Subsection C of this Section have been met and further finds that the criteria of Chapter 19.44 of this Code have been, or by appropriate condition will be met, and if the Council further finds that the granting of the permit will not be injurious to the neighborhood in which the well is to be drilled or otherwise detrimental to the public welfare, then the permit shall be approved by resolution. Otherwise, the permit shall be denied. (Ord. 451-08; Ord. 403-07; Ord. 602-84)

16.28.150 Drilling, completion, production and maintenance regulations.

A. All operations shall be conducted in compliance with the requirements of this Chapter, the laws of the State, and the rules and regulations of the Colorado Oil and Gas Conservation Commission. Failure to follow these requirements will subject the user to the following sanctions:

1. Enforcement of the penalty provisions of this Code;

2. Cessation and closure of drilling and production by the City under the following terms and conditions:

a. The site of drilling and production operations shall, at all times, be open for inspection by the enforcement official or his or her authorized representative;

b. If the enforcement official or his or her authorized representative determines that drilling or completion operations are not proceeding in accordance with the provisions of this Chapter, that person shall immediately notify the operator or producer in writing of the specific nature of the noncompliance or default. The operator shall have forty-eight (48) hours from the time of such notice to remedy any noncompliance or default. If the operator does not remedy any noncompliance or default within that time period, his or her use by special review shall be terminated. Once terminated, a use by special review shall be reinstated upon full compliance with the provisions of this Chapter. The foregoing provision regarding notice and time to correct shall not apply to any violation creating a danger to human life or safety. For a safety violation, the enforcement officer may order immediate cessation of operations.

B. Within twenty-four (24) hours subsequent to an order to cease operations, the operator may request, in writing, a hearing before the Zoning Board of Appeals to review that order. Such request shall be submitted to the enforcement official. Such request shall be forwarded forthwith to the chairman of

the Zoning Board of Appeals. The hearing shall be held within seven (7) working days of the receipt of the request by the enforcement official. The chairman of the Zoning Board of Appeals shall provide at least three (3) days' notice to the operator of the date, place and time of hearing. This hearing may be held at either a regular or special meeting of the Zoning Board of Appeals. After reviewing evidence in support of the enforcement official's order and evidence from the operator protesting that order, the Zoning Board of Appeals shall render findings. If the Zoning Board of Appeals finds substantial evidence in support of the order to cease operations, it shall affirm the decision of the enforcement official. If the Zoning Board of Appeals does not find such evidence, it shall strike the order and reestablish the use by right, reversing the decision of the enforcement official. The decision of the Zoning Board of Appeals shall be final subject to review by City Council. An affirmative vote of five (5) members of the City Council shall be required to overturn the decision of the Zoning Board of Appeals.

C. Surface pipe shall be run and set in full compliance with the applicable rules and regulations of the Colorado Oil and Gas Conservation Commission and all applicable laws and ordinances. All gas piping shall be installed in conformance with the International Mechanical Code, as amended and adopted in this Code.

D. Adequate precautions shall be taken and necessary wellhead safety devices used at all times during the drilling, completion, production, repair and maintenance of the well.

E. Operations for the drilling, completion and equipping of any well to be drilled under the terms of this Chapter shall be completed within a period not to exceed one hundred eighty (180) days from the date of commencement thereof, and all drilling equipment, pulling and swabbing equipment removed on or before the expiration of such period.

F. Private roads and drill sites. Prior to and during drilling operations, the operator shall maintain adequate access to the well site. During operation of the well, all private roads used for access to the drill site and the drill site itself shall be graded for adequate drainage and shall be surfaced and maintained to prevent dust and mud and to provide access for fire protection.

G. Blowout protection. Appropriate blowout prevention shall be provided to prevent the blowout of an oil or gas well during drilling and re-drilling operation.

H. Electric motors for pumping operations. Only electric power motors shall be used for pumping units. Power for such motors shall be derived from a public utility outlet. Where preexisting wells fail to meet this requirement, they shall be deemed to be nonconforming and subject to compliance within a six-month period.

I. Fencing. All drilling locations and equipment as well as all pumps and equipment used in the operation of a complete well shall be enclosed on all sides by a chain-link fence at least six (6) feet in height and, in addition, have not less than three (3) strands of barbed wire sloping outward at approximately a 45-degree (45°) angle for eighteen (18) inches from the top of the fence. There shall be no aperture below such fence greater than four (4) inches.

J. Landscaping and/or screening. The City may require landscaping or screening. Landscaping shall be required where necessary in light of locational factors (i.e., proximity to residential areas) and shall be appropriate to the surrounding environment. All apparatus located above ground shall be painted in muted tones to be compatible with the surrounding areas.

K. Noise and vibration requirements. During all operations from commencement through abandonment, all noise and vibration shall conform to the requirements of this Code.

L. Control of noxious fumes. The operator and a producer shall make a good faith effort to control the escape of noxious fumes and in no event shall they be allowed to become a nuisance to abutting properties.

M. Signs. An approved sign having a surface area of not less than two (2) square feet and not more than six (6) square feet, bearing the current name and/or insignia of the operator, shall be displayed at all times for the commencement of operations until abandonment. The sign shall warn of safety hazards to the public. Advertising signs are prohibited.

N. Adequate fire-fighting apparatus and supplies, approved by the City Fire Department, shall be maintained on the drilling site at all times during drilling, completion and repair operations. All machinery, equipment and installations on all drilling sites within the City limits shall conform to such requirements as may from time to time be issued by the Fire Department.

O. Building permits and all other applicable permits shall be obtained by the applicant pursuant to federal, state and local law. (Ord. 403-07; Ord. 602-84)

16.28.160 Deeper drilling.

Once any well has either been completed as a producer or abandoned as a dry hole, it is unlawful and an offense for any person to drill such well to a deeper depth than that reached in the prior drilling operations without providing evidence of the following to the administrative official:

- A. The then condition of the well and the casing therein;
- B. The depth to which it is proposed such well be deepened;
- C. The proposed casing program to be used in connection with proposed deepening operations;

D. Evidence of adequate current tests showing that the casing strings in the well currently pass the same tests as are provided for in this Chapter in case of the drilling of the original well. In the event the Planning Commission and the City Council are satisfied that the well may be deepened with the same degree of safety as existed in the original well, a supplemental use by special review may be issued without an additional filing fee authorizing the deepening and operation of the well to such specified depth as applied for. In any deeper drilling, or any deeper completion of any deeper production operations, the applicant shall comply with all other provisions contained in this Chapter and applicable to the drilling, completion and operation of a well or wells. (Ord. 403-07; Ord. 602-84)

16.28.170 Transfer of operations.

Subsequent to a grant of use by special review, no operator shall sell, transfer, assign or convey the drilling site, equipment or operations without notifying the Planning Department of such action. Prior to the commencing of drilling or production, the new operator shall submit evidence, satisfactory to the administrative official, of compliance with all of the provisions of this Chapter, including, but not limited to, appropriate insurance bonds. (Ord. 403-07; Ord. 602-84)

16.28.180 Revocation.

The violation or breach of any of the terms or conditions of this Chapter, the ceasing to exist of any of the conditions precedent listed in this Chapter or the breach of any of the terms or conditions of any use by special review pursuant hereto shall be grounds for the revocation of any use by special review

permitted under this Chapter. Such revocation shall take place only upon a hearing by the Zoning Board of Appeals as set forth in Subparagraph b of Paragraph 16.28.160.A.2 above. (Ord. 403-07; Ord. 602-84)

16.28.190 Penalty.

A. Any person who violates any of the provisions of this Chapter is guilty of a violation of this Chapter and shall be punished as provided in Section 1.16.010 of this Code.

B. In the event an operator fails to comply with the provisions of this Chapter, the City may perform the required action and invoice the operator responsible, plus a ten percent (10%) fee for inspection and other administrative costs. The City shall first give written notice to the operator of the required action and allow at least fourteen (14) days to comply, except in the case of emergency. In the event an operator fails to pay an invoice from the City for such costs and fees within thirty (30) days of receipt of such invoice, the City may file a lien on the mineral property with the County Treasurer to be placed upon the tax list for the current year and to be collected in the same manner as other taxes are collected, with an additional ten percent (10%) penalty to defray the cost of collection. Such lien shall have priority over all other liens except general taxes and prior assessments. Nothing in this Section shall preclude or prevent the City from punishing violations of this Code in accordance with Section 1.16.010 of this Code or any other applicable laws, ordinances, rules or regulations. (Ord. 403-07; Ord. 602-84)